

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: JANUARY 7, 2009**

**DEPARTMENT: BUSINESS DEVELOPMENT**

**ITEM DESCRIPTION: Discussion and possible action regarding a Second Amendment to Disposition and Development Agreement between Office District Parking I, Inc. and CityMark Juhl LLC**

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1. On October 20, 2004, Office District Parking I, Inc. (ODP), a wholly owned subsidiary of the City, was authorized to enter into a Disposition and Development Agreement (DDA) with CityMark Development LLC to develop a mixed-use residential project on a site located at 3<sup>rd</sup> St. and Bonneville Ave. (Project) totaling approximately 2.38 acres (Property).
2. On June 15, 2005, a First Amendment to DDA (1st Amendment) was authorized to provide for relocation of existing utilities before and after close of escrow without waiving Developer's responsibility for the expense of relocating said utilities.
3. CityMark Juhl LLC (CityMark), with the consent of ODP, acquired from CityMark Development LLC all present and future right, title and interest in and to the DDA and 1<sup>st</sup> Amendment through the Assignment and Assumption of Disposition and Development Agreement dated December 12, 2005.
4. Under the terms of the DDA, the CityMark paid ODP a downpayment of \$2,000,000 and executed a Promissory Note in the principal amount of \$3,196,200 (secured by a Deed of Trust) for the Site. The Promissory Note accrues interest at 5.5% and is due at the earlier of the close of escrow for the 220th residential unit sold in the Project or May 31, 2009.
5. CityMark commenced construction of the Project with approved Improvement Plans (Plan # CLV-107Y4909) premised on the City of Las Vegas ("City") constructing new sewer storm drain facilities on Bonneville Ave. to which the Project would connect its sewer storm drain.
6. However, the City has not constructed the new sewer storm drain facilities along Bonneville Ave. causing CityMark to incur substantial additional costs to redesign and connect the Project's sewer storm drain to 4th St.
7. The purpose of the 2<sup>nd</sup> Amendment is to provide CityMark with a credit equal to the \$184,739.04 in additional costs incurred (to redesign the Project's sewer storm drain connection) towards its Promissory Note to ODP.